

AMENDED IN ASSEMBLY APRIL 16, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 268

Introduced by Assembly Member Campbell

February 13, 1997

An act to amend Sections 113803, 113813, 113865, 114020, 114145, 114265, 114360, and 114380 of, to amend the heading of Article 11 (commencing with Section 114250) of Chapter 4 of Part 7 of Division 104 of, to amend and renumber Section 113732 of, to amend and repeal Section 113843 of, and to repeal Section 113844 of, the Health and Safety Code, relating to ~~drinking water~~ retail food facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 268, as amended, Campbell. ~~Drinking water: retail~~ Retail food facilities.

Existing law, the California Safe Drinking Water Act, establishes drinking water standards, and requires the State Department of Health Services to administer provisions relating to the regulation of drinking water and public water systems, as defined, including enforcement of the federal Safe Drinking Water Act. Existing law defines “public water system” for this purpose to mean a system for the provision of piped water to the public for human consumption that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year, and includes a transient noncommunity water system, as defined.

Existing law, the California Uniform Retail Food Facilities Law, establishes sanitation standards for retail food facilities and requires local agencies to enforce its provisions. Existing law defines “potable water,” for this purpose to mean water that complies with standards for a transient noncommunity water system. *Existing law makes violation of these provisions a crime. Existing law requires that these provisions be enforced by the State Department of Health Services and primarily by local health agencies.*

This bill would, instead, define “potable water” for this purpose to mean water that is supplied from a water system that complies with the requirements for a transient noncommunity water system. ~~This~~

Existing law, with certain exceptions, requires each food establishment to be fully enclosed.

This bill would, during operating hours, exclude from this enclosure requirement operations for customer self-service of nonpotentially hazardous bulk beverage dispensing that meet prescribed requirements.

By increasing the enforcement duties of local health agencies, this bill would impose a state-mandated local program.

This bill would make other changes of a technical, nonsubstantive nature.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. *Section 113732 of the Health and Safety*
- 2 *Code, as added by Section 321.5 of Chapter 1023 of the*
- 3 *Statutes of 1996, is amended and renumbered to read:*
- 4 ~~113732.—~~

1 113733. (a) All animal byproducts and inedible
2 kitchen grease disposed of by any food facility, except
3 restaurants, shall be transported by a renderer licensed
4 under Section 19300 of the Food and Agricultural Code,
5 or a registered transporter of inedible kitchen grease,
6 licensed under Section 19310 of the Food and Agricultural
7 Code. Nothing in this section prevents a food facility from
8 transporting its own animal byproducts in its own
9 vehicles to a central collection point. For the purposes of
10 this section, inedible kitchen grease does not include
11 grease recovered from an interceptor.

12 ~~“Restaurant,”~~

13 (b) “Restaurant,” as used in this section, means any
14 coffeeshop, cafeteria, short-order cafe, luncheonette,
15 tavern, cocktail lounge, sandwich stand, soda fountain,
16 private and public school cafeteria or eating
17 establishment, in-plant or employee eating
18 establishment, studio facility, dinnerhouse, delicatessen,
19 commissary, hotel or motel food service operation, and
20 any other eating establishment, organization, club,
21 including veterans’ club, boardinghouse, guesthouse, or
22 political subdivision, ~~which~~ *that* gives, sells, or offers for
23 sale, food to the public, guests, patrons, or employees, as
24 well as kitchens in which food is prepared on the premises
25 for serving elsewhere, including catering functions.

26 SEC. 2. Section 113803 of the Health and Safety Code
27 is amended to read:

28 113803. “Hermetically sealed container” means a
29 container that is designed and intended to be secure
30 against the entry of ~~micro-organisms~~ *microorganisms*
31 and, in the case of low-acid canned foods, to maintain the
32 commercial sterility of its contents after processing.

33 SEC. 3. Section 113813 of the Health and Safety Code
34 is amended to read:

35 113813. “Injected” means manipulating a meat so that
36 infectious or toxigenic ~~micro-organisms~~ *microorganisms*
37 may be introduced from its surface to its interior through
38 tenderizing with deep penetration or injecting the meat
39 ~~such as~~ with, *for example*, juices, that may be referred to
40 as “injecting,” “pinning,” or “stitch pumping.”

1 SEC. 4. Section 113843 of the Health and Safety Code,
2 as added by Chapter 874 of the Statutes of 1996, is
3 repealed.

4 ~~SEC. 2.—~~

5 SEC. 5. Section 113843 of the Health and Safety Code,
6 as added by Chapter 875 of the Statutes of 1996, is
7 amended to read:

8 113843. “Potable water,” for the purposes of this
9 chapter, means water that is supplied from a water
10 system that complies with the requirements for a
11 transient noncommunity water system under the
12 California Safe Drinking Water Act (Chapter 4
13 (commencing with Section 116275) of Part 12 of Division
14 104); ~~to the extent permitted by federal law.~~

15 ~~SEC. 3.—~~

16 SEC. 6. Section 113844 of the Health and Safety Code
17 is repealed.

18 SEC. 7. *Section 113865 of the Health and Safety Code*
19 *is amended to read:*

20 113865. “Remodel” means construction, building, or
21 repair to the food facility that requires a permit from the
22 local building authority. For purposes of Article 11
23 (commencing with Section 114250), Article 12
24 (commencing with Section 114285), and Article 17
25 (commencing with Section ~~114363~~ 114358), remodel
26 means any replacement or significant modification of an
27 integral piece of equipment.

28 SEC. 8. *Section 114020 of the Health and Safety Code*
29 *is amended to read:*

30 114020. (a) No employee shall commit any act that
31 may result in the contamination or adulteration of food,
32 food contact surfaces, or utensils.

33 (b) All employees preparing, serving, or handling food
34 or utensils shall wear clean, washable outer garments, or
35 other clean uniforms. All employees shall wear hairnets,
36 caps, or other suitable coverings to confine all hair when
37 required to prevent the contamination of food,
38 equipment, or utensils.

39 (c) All employees shall thoroughly wash their hands
40 and arms by vigorously rubbing them with cleanser and

1 warm water, paying particular attention to areas between
2 the fingers and around and under the nails, rinsing with
3 clean water. Employees shall wash their hands:

4 (1) Immediately before engaging in food preparation,
5 including working with unpackaged food, clean
6 equipment and utensils, and unwrapped single-service
7 food containers and utensils.

8 (2) Before dispensing or serving food or handling
9 clean tableware and serving utensils in the food service
10 area.

11 (3) As often as necessary, during food preparation, to
12 remove soil and contamination and to prevent
13 cross-contamination when changing tasks.

14 (4) When switching between working with raw foods
15 and working with ready-to-eat foods.

16 (5) After touching bare human body parts other than
17 clean hands and clean, exposed portions of arms.

18 (6) After using the toilet room.

19 (7) After caring for or handling any animal allowed in
20 a food facility pursuant to Section ~~114040~~ 114045.

21 (8) After coughing, sneezing, using a handkerchief or
22 disposable tissue, using tobacco, eating, or drinking.

23 (9) After handling soiled equipment or utensils.

24 (10) After engaging in any other activities that
25 contaminate the hands.

26 (d) No employee shall expectorate or use tobacco in
27 any form in any area where food is prepared, served, or
28 stored, or where utensils are cleaned or stored.

29 (e) Employees serving ready-to-eat foods shall use
30 gloves, tongs, or other implements to place food on
31 tableware or in other containers.

32 (f) Gloves shall be worn when contacting food and
33 food contact surfaces if the employee has any cuts, sores,
34 rashes, artificial nails, nail polish, rings (other than a plain
35 ring, such as a wedding band), uncleanable orthopedic
36 support devices, or finger nails that are not clean, neatly
37 trimmed, and smooth.

38 (g) Whenever gloves are worn, they shall be changed,
39 replaced, or washed as often as handwashing is required

1 in subdivision (c). When single-use gloves are used, they
2 shall be replaced after removal.

3 *SEC. 9. Section 114145 of the Health and Safety Code*
4 *is amended to read:*

5 114145. (a) Each food establishment, except produce
6 stands and swap meet prepackaged food stands, shall be
7 fully enclosed in a building consisting of floors, walls, and
8 an overhead structure that meet the minimum standards
9 prescribed by this chapter. Food establishments that are
10 not fully enclosed on all sides and that are in operation on
11 January 1, 1985, shall not be required to meet the
12 requirement for a fully enclosed structure pursuant to
13 this section.

14 (b) This section shall not be construed to require the
15 enclosure of dining areas or open-air barbecue facilities,
16 or outdoor displays that meet the following requirements:

17 (1) Only prepackaged nonpotentially hazardous food,
18 uncut produce, or both is displayed or sold in the outdoor
19 displays.

20 (2) Outdoor displays are contiguous with a fully
21 enclosed food establishment that is in compliance with
22 subdivision (a).

23 (3) Outdoor displays have overhead protection that
24 extends over all food items.

25 (4) Food items from the outdoor display are stored
26 inside a fully enclosed food establishment that is in
27 compliance with subdivision (a) at all times other than
28 during business hours. Any food items to be stored
29 pursuant to this subdivision shall be stored in accordance
30 with subdivision (a) of Section 114080.

31 (5) Outdoor displays comply with Section 114010 and
32 have been approved by the enforcement agency.

33 (6) Outdoor displays are under the constant and
34 complete control of the operator of the permitted food
35 establishment.

36 (c) *This section shall not be construed to require the*
37 *enclosure during operating hours of customer self-service*
38 *nonpotentially hazardous bulk beverage dispensing*
39 *operations that meet the following requirements:*

1 (1) The dispensing operations are installed contiguous
2 with a fully enclosed food establishment that is in
3 compliance with subdivision (a) and operated by the food
4 establishment.

5 (2) The beverages are dispensed from enclosed
6 equipment that precludes exposure of the beverages
7 until they are dispensed at the nozzles.

8 (3) Ice is dispensed only from an ice maker-dispenser.
9 Ice is not scooped or manually loaded into an ice
10 dispenser out of doors.

11 (4) Single-service utensils are protected from
12 contamination and are individually wrapped or
13 dispensed from approved sanitary dispensers.

14 (5) The dispensing operations have overhead
15 protection that fully extends over all equipment
16 associated with the facility.

17 (6) During nonoperating hours the dispensing
18 operations are fully enclosed so as to be protected from
19 contamination by vermin and exposure to the elements.

20 (7) The owner or operator of the food establishment
21 demonstrates to the enforcement agency that acceptable
22 methods are in place to properly clean and sanitize the
23 beverage dispensing equipment.

24 (8) Beverage dispensing operations are in compliance
25 with Section 114010 and have been approved by the
26 enforcement agency.

27 (9) Beverage dispensing operations are under the
28 constant and complete control of the permitholder of the
29 food establishments who is operating the dispensing
30 facility.

31 (d) This section shall not be construed to allow outdoor
32 displays in violation of local ordinances.

33 SEC. 10. The heading of Article 11 (commencing with
34 Section 114250) of Chapter 4 of Part 7 of Division 104 of
35 the Health and Safety Code is amended to read:

36
37 Article 11. ~~Mobil~~ Mobile Food Facilities

38
39 SEC. 11. Section 114265 of the Health and Safety Code
40 is amended to read:

1 114265. (a) The name, address, and telephone
2 number of the owner, operator, permittee, business
3 name, or commissary shall be legible, clearly visible, and
4 permanently indicated on at least two sides of the exterior
5 of the mobile food facility. The name shall be in letters at
6 least 8 centimeters (3 inches) high and shall have strokes
7 at least 1 centimeter ($\frac{3}{8}$ inch) wide, and shall be of a
8 color contrasting with the mobile food facility exterior.
9 Letters and numbers for address and telephone numbers
10 shall not be less than 2.5 centimeters (one inch) high.

11 (b) Mobile food facility equipment, including, but not
12 limited to, the interior of cabinet units and
13 compartments, shall be designed so as to, and made of
14 materials that, result in smooth, readily accessible, and
15 easily cleanable surfaces. Unfinished wooden surfaces are
16 prohibited. Construction joints shall be tightly fitted and
17 sealed so as to be easily cleanable. Equipment and utensils
18 shall be constructed of durable, nontoxic materials and
19 shall be easily cleanable.

20 (c) During operation, no food intended for retail shall
21 be conveyed, held, stored, displayed, or served from any
22 place other than a mobile food facility except for the
23 restocking of product in a manner approved by the
24 enforcement agency.

25 (d) Notwithstanding subdivision (k), food products
26 remaining after each day's operation shall be stored only
27 in an approved commissary or other approved facility.

28 (e) During transportation, storage, and operation of a
29 mobile food facility, food, food contact surfaces, and
30 utensils shall be protected from contamination.
31 Single-service utensils shall be individually wrapped or in
32 sanitary containers or approved sanitary dispensers,
33 stored in a clean, dry place until used, handled in a
34 sanitary manner, and used only once. Food contact
35 surfaces and utensils shall be cleaned and sanitized in
36 accordance with subdivisions (i), (j), and (k) of Section
37 114090.

38 (f) All food displayed, sold, or offered for sale from a
39 mobile food facility shall be obtained from an approved
40 source.

1 (g) Food condiments shall be protected from
2 contamination and, where available for customer
3 self-service, be prepackaged or available only from
4 approved dispensing devices.

5 (h) Mobile food facilities shall be operated within 60
6 meters (200 feet) of approved and readily available toilet
7 and hand washing facilities or as otherwise approved by
8 the enforcement agency to ensure restroom facilities are
9 available to facility employees.

10 (i) All mobile food facilities shall operate out of a
11 commissary or other approved facility. Mobile food
12 facilities shall report to the commissary or other approved
13 facility at least once each operating day for cleaning and
14 servicing operations. Mobile food facilities shall be
15 properly stored, cleaned, and ~~services~~ *serviced* at, or
16 within, a commissary or other facility as approved by the
17 enforcement agency so as to provide protection from
18 unsanitary conditions.

19 (j) Potentially hazardous food shall be maintained at
20 or below 5 degrees Celsius (41 degrees Fahrenheit) or at
21 or above 60 degrees Celsius (140 degrees Fahrenheit) at
22 all times in accordance with Section 113995.

23 (k) Potentially hazardous food held at or above 60
24 degrees Celsius (140 degrees Fahrenheit) on a mobile
25 food facility shall be destroyed at the end of the operating
26 day.

27 (l) All waste water from a mobile food facility shall be
28 drained to an approved waste water receptor at the
29 commissary or other approved facility.

30 (m) All new and replacement gas-fired appliances
31 shall meet applicable American Gas Association
32 standards. All new and replacement electrical appliances
33 shall meet applicable Underwriters Laboratory
34 standards.

35 (n) Bulk beverage dispensers shall only be filled at the
36 commissary or other facility approved by the
37 enforcement agency unless a hand washing sink as
38 described in paragraph (1) of subdivision (p) is provided.

39 (o) Where nonprepackaged food is handled for display
40 or sale, the mobile food facility shall be equipped with a

1 food compartment that completely encloses all food, food
2 contact surfaces, and the handling of ready-to-eat food.
3 The opening to the food compartment shall be sized as
4 appropriate to the food handling activity without
5 compromising the intended protection from
6 contamination, and shall be provided with tight-fitting
7 doors that, when closed, protect interior surfaces from
8 dust, debris, insects, and other vermin.

9 (p) Mobile food facilities, not under a valid public
10 health permit as of January 1, 1997, on which
11 nonprepackaged ready-to-eat food is sold or offered for
12 sale shall be constructed and equipped in compliance
13 with all of the following:

14 (1) A minimum of a one-compartment metal sink,
15 hand washing cleanser and single-service towels in
16 approved dispensers shall be provided. The sink shall be
17 furnished with hot running water that is at least 49
18 degrees Celsius (120 degrees Fahrenheit) and cold
19 running water that is less than 38 degrees Celsius (101
20 degrees Fahrenheit) through a mixing-type faucet that
21 permits both hands to be free for washing. The sink shall
22 be large enough to accommodate the largest utensils
23 washed. The sink, hand washing cleanser, and
24 single-service towels shall be located as to be easily
25 accessible and unobstructed for use by the operator in the
26 working area. The minimum water heater capacity shall
27 be one-half gallon.

28 (2) The potable water tank and delivery system shall
29 be constructed of approved materials, provide protection
30 from contamination, and shall be of a capacity
31 commensurate with the level of food handling activity on
32 the mobile food facility. The capacity of the system shall
33 be sufficient to furnish enough hot and cold water for the
34 following: steam table, utensil washing and sanitizing,
35 hand washing, and equipment cleaning. At least 18 liters
36 (5 gallons) of water shall be provided exclusively for hand
37 washing. Any water needed for other purposes shall be in
38 addition to the 18 liters (5 gallons) for hand washing.

39 (3) (i) The waste water tank or tanks shall have a
40 minimum capacity that is 50 percent greater than the

1 potable water tank or tanks supplying the hand and
2 utensil washing sink. In no case shall this waste water
3 capacity be less than 28 liters (7.5 gallons).

4 (ii) Mobile food facilities utilizing ice in the storage,
5 display, or service ~~or of~~ food or beverages shall provide an
6 additional minimum waste water holding tank capacity
7 equal to one-third of the volume of the ice cabinet to
8 accommodate the drainage of ice melt.

9 (iii) Mobile food facilities equipped with a tank
10 supplying product water for the preparation of a food or
11 beverage shall provide an additional waste water tank
12 capacity equal to at least 15 percent of this water supply.

13 (iv) Additional waste water tank capacity may be
14 required where waste water production or spillage is
15 likely to occur.

16 (v) Any connection to a waste water tank shall
17 preclude the possibility of contaminating any food, food
18 contact surface, or utensil.

19 (4) A mobile food facility's potable water tank inlet
20 shall be provided with a connection of a size and type that
21 will prevent its use for any other service and shall be
22 constructed so that backflow and other contamination of
23 the water supply is prevented. Hoses used to fill potable
24 water tanks shall be made of food grade materials and
25 handled in a sanitary manner.

26 (5) Mobile food facilities limited to the portioning and
27 dispensing of nonprepackaged, nonpotentially hazardous
28 food are exempt from the hand washing and utensil
29 washing sink requirements of this subdivision if there is
30 an approved supply of gloves or utensils, or both, on the
31 facility that preclude any hand contact with the food
32 products being dispensed. This exemption does not
33 extend to the scooping of ice.

34 (q) Mobile food facilities selling unpackaged frozen
35 ice cream bars or holding cream, milk, or similar dairy
36 products pursuant to Section 114270 shall be equipped
37 with refrigeration units as described in Section 113860.

38 (r) Operators of mobile food facilities handling
39 nonprepackaged food shall develop and follow written
40 operational procedures for food handling and the

1 cleaning and sanitizing of food contact surfaces and
2 utensils. The enforcement agency shall review and
3 approve the procedures prior to implementation and an
4 approved copy shall be kept on the mobile food facility
5 during periods of operation.

6 (s) All potentially hazardous food shall be
7 prepackaged in an approved food facility except as
8 provided in Sections 114260 and 114270.

9 *SEC. 12. Section 114360 of the Health and Safety Code*
10 *is amended to read:*

11 114360. Under the controls and conditions specified in
12 this article, a satellite food distribution facility as defined
13 in subdivision (b) of Section 113880 may do any of the
14 following:

15 (a) Hold, portion, and dispense any foods that are
16 prepared or prepackaged by the on-site food
17 establishment or prepackaged by another approved
18 source.

19 (b) Prepare foods other than potentially hazardous
20 foods, remove the packaging of foods described in
21 subdivision (a), prepare hot dogs, and coat ice cream bars
22 with chocolate and nuts, if all food preparation and
23 handling is within a compartment complying with
24 subdivision ~~(a)~~ (o) of Section ~~114275~~ 114265.

25 (c) Add condiments, sauces, garnishes, and similar
26 accompaniments to foods at the time of sale, regardless of
27 whether the accompaniments are potentially hazardous
28 foods.

29 (d) Bake potatoes in enclosed ovens.

30 *SEC. 13. Section 114380 of the Health and Safety Code*
31 *is amended to read:*

32 114380. Notwithstanding Section ~~114020~~ 114021,
33 restricted food service transient occupancy
34 establishments shall not be required to post signs in toilet
35 rooms in guestrooms.

36 *SEC. 14. No reimbursement is required by this act*
37 *pursuant to Section 6 of Article XIII B of the California*
38 *Constitution because a local agency or school district has*
39 *the authority to levy service charges, fees, or assessments*
40 *sufficient to pay for the program or level of service*

1 *mandated by this act, within the meaning of Section 17556*
2 *of the Government Code.*
3 *Notwithstanding Section 17580 of the Government*
4 *Code, unless otherwise specified, the provisions of this act*
5 *shall become operative on the same date that the act*
6 *takes effect pursuant to the California Constitution.*

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